

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Handbook Section 33-130(a)(3)(A)

Specific Purpose/Factual Basis:

This handbook section is amended to update the quoted language from Section 15610.07 of the Welfare and Institutions Code.

Section 33-130(a)(5) and Handbook Section 33-130(a)(5)(A)

Specific Purpose/Factual Basis:

Section 33-130(a)(5) is amended to add an acronym for "adult protective services." The handbook section is amended to update the quoted language from Section 15760 of the Welfare and Institutions Code.

Section 33-130(a)(7) and Handbook Section 33-130(a)(7)(A)

Specific Purpose/Factual Basis:

Section 33-130(a)(7) and Handbook Section 33-130(a)(7)(A) are amended to correct the section of the Welfare and Institutions Code that is being cross referenced, namely Section 15751.

Section 33-130(a)(8)

Specific Purpose:

The specific purpose of this amendment is to expand the definition of "Adult protective services (APS) worker." Section 33-130(a)(8)(C) is adopted to allow second-year interns in a Bachelor's of Social Work or Master's program to perform the duties of an APS worker, under close supervision.

Factual Basis:

It is necessary to adopt Section 33-130(a)(8)(C) to reflect a determination made by the County Welfare Directors Association (CWDA). Under the authority of Section 10553 and 10554 of the Welfare and Institutions Code, the CWDA determined that individuals pursuing a course of study in social work, or a related field, and who are in their second year of an internship, can be assigned cases and perform the duties of an APS worker. The duties of an APS worker include: investigating

allegations of elder and dependent adult abuse and providing case management activities such as service plan development, assessment, monitoring and reassessment.

Handbook Section 33-130(c)(1)(A)

Specific Purpose/Factual Basis:

This handbook section is amended to update the quoted language from Section 15610.17 of the Welfare and Institutions Code.

Section 33-130(c)(3)

Specific Purpose:

The purpose of this adoption is to include a definition of "clergy member" as it relates to APS. This definition is meant to alleviate any misunderstanding of terminology and consistency of service delivery.

Factual Basis:

The definition of "clergy member" is necessary to specify that as used in these regulations, and as defined in Welfare and Institutions Code section 15610.19, it means a "priest, minister, rabbi, practitioner, or similar functionary of a church, synagogue, temple, mosque, or recognized religious denomination or organization." "Clergy member" does not include unpaid volunteers whose principal occupation or vocation does not involve active or ordained ministry in a church, synagogue, temple, mosque, or recognized religious denomination or organization and who periodically visit elder or dependent adults on behalf of that church, synagogue, temple, mosque, or recognized religious denomination or organization.

This section is a duplication of Welfare and Institutions Code section 15610.19 and is necessary to provide clear program requirements to the County Welfare Departments (CWDs) that administer the APS Program at the local level. Also, it makes it easier for the CWDs to have everything they need to make a determination in one place rather than having to look at the statute if the regulation only included a cross reference to the statute.

Section 33-130(c)(4) through (8)

Specific Purpose/Factual Basis:

Current Section 33-130(c)(3) through (7) are renumbered to (c)(4) through (8) respectively to allow for the adoption of new Section 33-130(c)(3).

Section 33-130(c)(4) (Renumbered to 33-130(c)(5))

Specific Purpose/Factual Basis:

The purpose of this amendment is to update the definition of "community care facility" as defined in Sections 1502(a)(1), (2), and (7) of the Health and Safety Code and update the cross reference to the definition of adult residential facility. Adult day support center is being repealed from this definition as those centers are nonexistent and their definition has been repealed from Section 1502.2 of the Health and Safety Code. The handbook section is updated to reflect the amendments made to the preceding regulation.

Handbook Section 33-130(d)(1)(A)

Specific Purpose/Factual Basis:

This handbook section is amended to update the quoted language from Section 15610.23 of the Welfare and Institutions Code.

Handbook Section 33-130(l)(3)(B)

Specific Purpose/Factual Basis:

This handbook section is amended to correct the Health and Safety cross referenced section that defines "residential care facility for the elderly."

Handbook Section 33-130(l)(4)(A)

Specific Purpose/Factual Basis:

This handbook section is amended to update the quoted language from Section 15610.50 of the Welfare and Institutions Code.

Handbook Section 33-130(l)(5)(A)

Specific Purpose/Factual Basis:

This handbook section is amended to update the quoted language from Section 1418(a) of the Health and Safety Code.

Handbook Section 33-130(m)(1)(A)

Specific Purpose/Factual Basis:

This handbook section is amended to update the quoted language from Section 15630(a) of the Welfare and Institutions Code.

Section 33-130(m)(2)

Specific Purpose:

This section is adopted to provide a definition of "mandated reporter of suspected financial abuse of an elder or dependent adult". "Mandated reporter of suspected financial abuse of an elder or dependent adult" means all officers and employees of financial institutions as defined in Welfare and Institutions Code section 15630.1. The handbook section provides the quoted language from Welfare and Institutions Code section 15630.1 which includes a definition of financial institutions.

Factual Basis:

The definition of "mandated reporters of suspected financial abuse" is contained in Welfare and Institutions Code Section 15630.1 and is included in a handbook section to assist APS social workers and workers in related agencies in understanding the regulations and mandates associated with the role. The definition is included for county APS workers to be aware who is considered mandated reporters of suspected financial abuse.

Handbook Section 33-130(m)(3)(A) (Renumbered to 33-130(m)(4)(A))

Specific Purpose/Factual Basis:

This handbook section is amended to update the quoted language from Section 15610.55 of the Welfare and Institutions Code.

Handbook Section 33-130(n)(1)(A)

Specific Purpose/Factual Basis:

This handbook section is amended to update the quoted language from Section 15610.57 of the Welfare and Institutions Code.

Handbook Section 33-130(p)(1)(A)

Specific Purpose/Factual Basis:

This handbook section is amended to update the quoted language from Section 15610.63 of the Welfare and Institutions Code.

Section 33-130(s)(1)

Specific Purpose:

This section is adopted to provide a definition of "serious bodily injury" as it exists in Welfare and Institutions Code section 15610.67. The handbook section provides the exact definition from mentioned Welfare and Institutions Code.

Factual Basis:

The definition of "serious bodily injury" is contained in the Welfare and Institutions Code Section 15610.67 and is repeated here for clarification. Serious bodily injury is one of the circumstances that constitutes abuse, and the inclusion of the definition will assist APS workers in responding to reports of physical abuse and in providing appropriate preventive and remedial services to the elder or dependent adult. Serious bodily injury is also a specific statutory requirement for law enforcement to be able to bring felony charges in abuse cases. Therefore, it is important that APS workers are aware of this definition and use the term correctly.

Sections 33-130(s)(2) and (3) (Renumbered from 33-130(s)(1) and (2))

Specific Purpose/Factual Basis:

These sections are renumbered as a result of the adoption of new Section 33-130(s)(1).

Section 33-130(u)(1)

Specific Purpose:

This section is adopted to provide a definition of "undue influence" as it exists in Welfare and Institutions Code section 15610.70. The handbook section provides the exact definition from mentioned Welfare and Institutions Code.

Factual Basis:

This section is necessary because undue influence is a tactic that abusers use to enable the commission of acts of abuse, most commonly financial abuse, and the inclusion of this definition will assist APS workers in responding to reports of abuse by providing appropriate preventive and remedial services to the elder or dependent adult.

b) Identification of Documents Upon Which Department Is Relying

None.

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

d) Statement of Alternatives Considered

In developing the regulatory action, CDSS did not consider any alternatives as none were presented for consideration.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact on Business

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the knowledge that there would be no fiscal impact because the proposed action is limited to the broadening and inclusion of definitions to align APS policies with state code.

f) Economic Impact Assessment [Government Code section 11346.3(b)]

In accordance with Government Code section 11346.3(b), CDSS has made the following assessments regarding the proposed regulations. This analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implanting the statutory policy or other provision of law.

The proposed regulations are an amendment to Section 33-130 of the APS Manual of Policy and Regulations pertaining to "Definitions."

Creation or Elimination of Jobs Within the State of California

The proposed regulations changes are aligning the definitions contained in APS regulations with changes in the Welfare and Institutions Code, and they neither create or eliminate jobs in the State of California.

Creation of New or Elimination of Existing Businesses Within the State of California

The proposed regulations changes are aligning the definitions contained in APS regulations with changes in the Welfare and Institutions Code, and they neither result in the creation of new businesses nor elimination of existing businesses in the State of California.

Expansion of Businesses Within the State of California

The adoption of the proposed regulations will not result in the expansion of businesses in the State of California. If there were to be any impact on the expansion of California businesses, it would be the result of the passage of Welfare and Institutions Code changes and not the amendments to the APS Manual of Policies and Procedures. Therefore, CDSS has determined that these regulation amendments will not have an impact on the expansion of businesses currently doing business within the State of California.

Benefits of the Regulations

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: It enables Adult Protective Services to more comprehensively address and remedy issues afflicting clients by expanding and refining definitions and terminology throughout the state, eliminating a degree of uncertainty and ambivalence, making the work protecting the elderly and disabled more effective.

g) Benefits Anticipated from Regulatory Action

The proposed amendment to the regulations will assist state APS workers in carrying out their mandated responsibilities in a more consistent and efficient manner. By tightening the definitions of emergency shelters, clergy, financial mandate reporters, and expanding those definitions, workers can better enlist the aid of stakeholders and additional agencies in resolving cases. The improved understanding and reduction of ambiguity regarding, for example, financial abuse, will directly benefit victims and potential victims of financial crimes.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.